

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

David M. Ault,

Plaintiff,

v.

Case No. 2:13-cv-505

Carolyn W. Colvin,
Acting Commissioner of
Social Security,

Defendant.

ORDER

This matter is before the court for consideration of the May 4, 2014, report and recommendation of the United States magistrate judge to whom this case was referred pursuant to 28 U.S.C. §636(b). The magistrate judge recommended that the decision of the Commissioner be reversed and that the action be remanded to the Commissioner for further consideration of the medical opinions of Drs. Yerian and Hodges.

The report and recommendation specifically advised the parties that failure to object to the report and recommendation within fourteen days of the filing of the report "will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court[.]" Doc. 17, pp. 36-37. Noting that no objections have been filed and that the time for filing such objections has expired, the court adopts and affirms the report and recommendation (Doc. 17).

The decision of the Commissioner of Social Security denying plaintiff's applications for disability insurance benefits and supplemental security income is reversed pursuant to Sentence 4 of 42 U.S.C. §405(g). This action is hereby remanded to the

Commissioner for further proceedings consistent with the report and recommendation and this order. On remand, the administrative law judge shall consider the November 2009 opinion of Dr. Yerian concerning plaintiff's residual functional capacity, the opinion of Dr. Hodges, plaintiff's treating physician, regarding plaintiff's residual functional capacity, and Dr. Hodges' treatment notes. If the administrative law judge does not accord Dr. Hodges' opinion controlling weight, then the administrative law judge shall provide good reasons for discounting the weight given Dr. Hodges' opinion. The clerk is directed to enter a final judgment in this case.

Date: May 27, 2014

s/James L. Graham
James L. Graham
United States District Judge